IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2006

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THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.NO.45075 OF 2006

V.G.Somarajan .. Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Fort St. George,
Chennai-600 009.
2.The Secretary,
Tamil Nadu Public Service Commission,
(TNPSC)
Chennai-600 002.
3.The Director Government Examinations,
College Road,
Chennai .. Respondents

This writ petition has been preferred under Article 226 of the Constitution of India praying for the issue of a writ of mandamus, directing the third respondent to issue appropriate orders within a stipulated time either reinstating the petitioner back in service or placing him under deemed suspension pursuant to the orders passed in G.O.Ms.No.198, School Education (V-1) Department, dated 24.10.2005.

For Petitioner : Ms.Malarvizhi Udayakumar

For Respondents: Mr.Gopiraja, GA

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ORDER

This writ petition is filed for a direction against the third respondent to issue appropriate order within stipulated time either to reinstate the petitioner in service or place him under deemed suspension pursuant to the orders passed in G.O.Ms.No.198, School Education (V-1) Department, dated 24.10.2005.

2.It is admitted that as per the G.O.Ms.No.198, School Education (V-1) Department, dated 24.10.2005, the Government has cancelled the earlier order passed against the petitioner removing him from service, which order was passed as early as on 20.12.1993. The grievance of the petitioner is that even after the Government passed such an order on 24.10.2005 by setting aside the order of removal and directing to continue with the enquiry, the petitioner is neither

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reinstated into service nor an order of deemed suspension is passed so as to enable the petitioner to get subsistence allowance. It seems that by an order, dated 8.2.2006, the third respondent has proceeded with the enquiry under Rule 17(b) of the Tamil Nadu Civil Services (Classification Control and Appeal) Rules by appointing an Enquiry Officer and that Enquiry Officer was changed and another enquiry Officer was appointed by the third respondent in his letter, dated 14.3.2006. In these circumstances, the petitioner has made a representation on 27.2.2006 stating that inasmuch as the Government has already set aside the order of removal passed against the petitioner and directed that the enquiry to be continued from the place where it was left, it is the duty on the part of the third respondent to either reinstate the petitioner or to place him under deemed suspension, pending final order to be passed in the fresh enquiry, which has been initiated under Rule 17(b) of the Tamil Nadu Civil Services (Classification Control and Appeal) Rules.

3.I have heard the learned counsel for the petitioner and Mr.Gopiraja, the Government Advocate, who takes notice on behalf of the respondents.

4.On the facts of the case, it is clear that the Government has set aside the earlier order and directed to proceed with the enquiry. Based on that, the third respondent has, in fact, proceeded with the enquiry under Rule 17(b). It is necessary and incumbent on the part of the third respondent either to reinstate the petitioner or to place him under deemed suspension, which will enable the petitioner to get subsistence allowance. In a circumstance like this, wherein no order has been passed, naturally the petitioner in is dilemma. In view of the same, the third respondent is directed to consider the representation of the petitioner, dated 27.2.2006 and pass appropriate orders either placing the petitioner under deemed suspension or reinstating the petitioner without prejudice to the continuance of disciplinary proceedings and such an order shall be passed within a period of four weeks from the date of receipt of copy of this order. This writ petition is disposed of with the above directions. There shall be no order as to the costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

vvk

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To

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Fort St. George,
Chennai-600 009.

2.The Secretary,
Tamil Nadu Public Service Commission,
(TNPSC)
Chennai-600 002.

3.The Director Government Examinations,
College Road,
Chennai

+1cc to Mr.Malarvizhi Udayakumar, Advocate Sr 56773
+1cc to Addl. Govt. Pleader Sr 57225

NA (CO)
km/24.11.

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